

Remarks

This Amendment and Response to Non-Final Office Action is being submitted in response to the non-final Office Action mailed July 29, 2008. Claims 27-40 are pending in the Application.

Claims 27-35 are rejected under 35 U.S.C. 103(a). Claims 27-36 and 38-40 are rejected on the grounds of non statutory obviousness-type double patenting.

The Examiner must choose between rejecting Claims 27-32 on the grounds of 35 U.S.C. 103(a) or rejecting them on the grounds of obvious-type double patenting. If the present invention is obvious in light of Meyer, Fujita, and Ando, and is not patentably distinct from U.S. '690, then by the transitive property US '690 should have been rejected in light of Meyer, Fujita, and Ando. It was not rejected and a notice of allowance was issued. Therefore if the present invention is not patentably distinct from U.S. '690 it cannot properly be rejected in light of Meyer, Fujita, and Ando under 35 U.S.C. 103(a).

Furthermore, Claims 27-32 of the present invention were improperly rejected on the grounds of obviousness-type double patenting. Claims 27-32 are patentably distinct from Claims 1-5 of the '690 patent. Claim 27 calls for drying the lump feed material to less than 0.5% water by weight. The Examiner writes that "it would be expected that the process of US '690 would result in the same content of water, since the process conditions... are substantially the same." However the process of US '690 does not teach the amount of time required for the drying process, therefore '690 does not teach how dry to make the lump feed material. By adding a measure of dryness (0.5% water by weight) the present invention teaches how dry to make the actual feed. It is a species within the genus of drying. The present invention is an improvement over the US '690 process. Because Claim 27 is patentably distinct, and Claims 28-32 depend from it, they should all be allowed.

In Claims 33-35 the description of the stockpile was modified. The U.S.S. reference teaches storing 6 months supply of iron-ore *adjacent* to the furnace because extra ore cannot be mined and transported during the colder months. It is solely for the purpose of having inventory when the climate does not permit mining. (pp. 569-571). The present invention teaches the incorporation of the stockpile, and storage for at least 1 month, to the furnace setup associating it with the feed storage bin in order to release internal stresses and increase the efficiency of the pre-drying process. Support for this distinction can be found in paragraph [0020] on page 3 of the specification.

Claim 35 was amended to incorporate the advantage of the narrow temperature profile which increases the average temperature inside the furnace. When reduction is carried out at a higher average temperature fewer fines are generated. These fines were problematic in the previous references. Support for the amendment to Claim 35 can be found in paragraphs [0010] and [0022] on pages 2 and 3 of the specification.

With regards to Claim 37 it was mentioned that “the process reads on a storage bin”. This gives absolutely no guidance to the practitioner. Because Claim 37 was not rejected under 35 U.S.C 103(a) nor on the grounds of non statutory obvious-type double patenting, it has been rewritten as an independent claim and must be allowed. Claims 38-40 also must be allowed because they are dependent on an allowable independent claim.

The Examiner uses the “Satomi” disclosure to reject several of the claims but fails to provide a citation for the “Satomi” disclosure. Reference to this disclosure was not found in any previous office actions or responses.

Conclusion

In response to these rejections, Claims 33-35, and 37 have been amended to further clarify the subject matter which Applicants regard as the invention, without prejudice or disclaimer to continued examination on the merits. These amendments are fully supported in the Specification, Drawings, and Claims of the Application and no new matter has been added. Based upon the amendments and the arguments presented herein, reconsideration of the Application is respectfully requested.

Respectfully,

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